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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,478

07/02/2003

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EXAMINER

NGUYEN, DAT

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

03/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/612,478

Applicant(s)

ENGLMAN ET AL.

Examiner

Dat T. Nguyen

Art Unit

3714

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-6, 8, 10-14, 16-22 and 25-39.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
ROBERT E. PEZZUTO  
SUPERVISORY PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant contests the finality of the previous office action alleging that the amendments presented substantially the same subject matter and further successfully argued that Ganger is not a proper reference. The examiner respectfully disagrees, the incorporation of limitations found in dependent claims into an independent claim changes the structure of the claims and incorporates limitations must now be considered in their independent form; for instance claim 7 is said to have been incorporated into independent claim 1. Claim 2 which is dependent on claim 1 and the claim tree of claim 1 and 2 did not have the limitations set forth by claim 7 until the applicant amended claim 1 to include the limitations of claim 7, which requires the examiner to reconsider the claims in a new light. Therefore the finality of the previous office action is maintained. Applicant provides a brief description of the invention and states that it is irrelevant to secondary players whether a winning outcome is achieved in the progressive game since their interest is only whether their predictions were correct regarding the main player's outcome. The examiner believes this description to be contradictory since there must be some relevancy of the winning outcome of the main player to the secondary players since it is the outcome that the secondary players are betting on. Applicant further alleges that the "side wagers" disclosed by Olsen is inconsistent with the side wagers of the present invention in that the Olsen reference, players wager a separate coin for the purpose of the bonus mode only and that has nothing to do with being a side wager as claimed by the current invention. The examiner respectfully disagrees. The instant specification has failed to properly define what a side wager is in accordance with the description the applicant has set forth in the response and therefore, the examiner must interpret the definition of a side wager as it is well known to one of ordinary skill in the art. Regarding a suggested amendment, the description of applicant's side wager not being available to the player A could be incorporated into the claims to better define the invention. Regarding the limitations of sending side wager inquiry signal, displaying a communication to a player of the second one of the plurality..., the feature of inquiring whether or not a player would like to make a wager on an event that may occur in the progressive game is inherent to the invention since the game of Olsen is a horse racing game and players are to make wagers based on the predicted outcome of the race. Applicant merely alleges that Olsen does not disclose the features of claims 8, 14, 19 and 27 offering no evidence as to why Olsen does not teach the claimed features. A discussion of why the examiner believes the claimed features are taught by the references can be found in the previous rejection dated 01/17/2007. Regarding claim 27, Olsen teaches a first one of the plurality of gaming terminals capable of making a side wager on an event that may occur in a progressive game (the machines of Olsen take wagers from players on events of the progressive horse racing game which is displayed in a large overhead sign) and signage displaying the progressive game that is played from the second one of the plurality of gaming terminals and the event on which the side wager is made at the first one of the plurality of gaming terminals (the game can be considered to be each played on the individual gaming terminals). Finally applicant alleges that Olsen fails to teach the signage including a local controller. The examiner respectfully disagrees, it appears that applicant has defined local to mean "serving a particular area or place" as defined by Webster's Dictionary. Furthermore, the arrangement of the controller inside the sign would not patentably distinguish the invention over the prior art since it would be a matter of routine to one of ordinary skill in the art to place the controller inside the sign.